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11 KOLB, an individual; TIMOTHY TAIRA, an individual; SAN JOAQUIN
12 RIVER ACCESS CORPORATION, a California Non-Profit Corporation

13 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO**

14 **CENTRAL DIVISION**

15 DAVID RODRIGUEZ, an individual;
16 SARAH KOLB, an individual; TIMOTHY
17 TAIRA, an individual; SAN JOAQUIN
18 RIVER ACCESS CORPORATION, a
19 California Non-Profit Corporation

20 Petitioners and Plaintiffs,

21 v.

22 SAN JOAQUIN RIVER
23 CONSERVANCY, a California Public
24 Agency; SANTOS GARCIA, in his
25 official capacity as a Director of the San
26 Joaquin River Conservancy; JULIE
27 VANCE, in her official capacity as a
28 Director of the San Joaquin River
Conservancy; JOHN DONNELLY, in his
official capacity as a Director of the San
Joaquin River Conservancy; JENNIFER
LUCCHESI, in her official capacity as a
Director of the San Joaquin River
Conservancy; and DOES 1 through 20,
inclusive,

Respondents and Defendants.

Case No.

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
INVERSE CONDEMNATION AND
DECLARATORY AND INJUNCTIVE
RELIEF**

Petitioners and Plaintiffs David Rodriguez, Sarah Kolb, Timothy Taira, and San
Joaquin River Access Corporation ("SJrac") (collectively, "Petitioners" or "Plaintiffs")

1 submit this Verified Petition for a Writ of Mandate and Complaint for Inverse Condemnation
2 and Declaratory and Injunctive Relief (the "Petition"), stating claims against Respondents and
3 Defendants the San Joaquin River Conservancy (the "Conservancy"), and Santos Garcia, Julie
4 Vance, John Donnelly, and Jennifer Lucchesi, in their official capacities as Directors of the
5 Conservancy (collectively, "Respondents" or "Defendants"), as set forth below.

6 **INTRODUCTION**

7 1. On or about December 13, 2017, after several contentious meetings, the
8 Conservancy approved the San Joaquin River West, Eaton Trail Extension Project ("Project"),
9 which included developing public access and a parking lot at a location adjacent to Palm
10 Avenue and Nees Avenue in the City of Fresno. This point of access was referred to during the
11 administrative process as "Alternative 5B."

12 2. The Conservancy approved Alternative 5B through its Resolution 17-02, which
13 stated that the Conservancy Board may decline to proceed with Alternative 5B if "reasonable
14 progress is not made toward implementing Alternative 5B within one year of approval," with
15 the requirement that "all parties" act in "good faith."

16 3. The Conservancy Board defined "reasonable progress" as the achievement of
17 five Benchmarks within one year after the approval of Alternative 5B: (1) SJRAC's acquisition
18 of approximately 11 acres of land for the parking lot and public access called the "Spano
19 Property"; (2) SJRAC's receipt of a post-closure land use plan for the Spano Property; (3) the
20 City of Fresno's approval of exceptions and variances to the Bluff Protection Overlay District
21 and tree removal ordinance required to implement Alternative 5B; (4) SJRAC's resolution of
22 certain issues raised by the Board at its December 2017 meeting associated with the Spano
23 easement "to the Conservancy Board's satisfaction"; and (5) SJRAC's negotiation of an access
24 easement for public use in favor of a willing public agency for the Spano property (collectively,
25 the "Benchmarks"). In addition to these Benchmarks, SJRAC was to report its progress to the
26 River West Fresno and North Palm Access Implementation Work Group (the "Work Group")
27 consisting of collaborating agencies and entities jointly involved and responsible for completing
28 the Benchmarks. The Conservancy Board also requested progress reports throughout the year.

1 4. In reliance on Resolution No. 17-02, and at the direction of Conservancy Staff
2 and Board Members, SJRAC fully discharged its obligation to make “reasonable progress” in
3 “good faith” by meeting—and exceeding—each of the Benchmarks, expending significant time
4 and resources in the process. Specifically, SJRAC: (1) acquired and recorded title to the Spano
5 Property (in addition to other properties); (2) obtained a Post-Closure Land Use Plan that was
6 approved by the County of Fresno Health Department and the Regional Water Quality Control
7 Board; (3) received the necessary approvals from the City of Fresno; (4) completed and
8 recorded the Spano Easement, with the edits specifically requested by the Conservancy Board in
9 December 2017 (and, although not required under Resolution 17-02, subsequent public
10 meetings); and (5) negotiated a final draft of the public access easement with the Wildlife
11 Conservation Board (“WCB”).

12 5. Although SJRAC and others met each of the Benchmarks, the Conservancy
13 ultimately determined “reasonable progress” had not been made, based on factors not stated in
14 Resolution 17-02, and not articulated to SJRAC and the public until *after* it was too late for
15 Petitioners to resolve any alleged concerns. Moreover, the Conservancy and others failed to act
16 in “good faith” toward the implementation of Alternative 5B, acted with impermissible bias
17 against Petitioners (openly calling them “NIMBYs”), declined to provide Petitioners a fair
18 hearing on the merits, and violated Petitioners’ rights under state and federal law.

19 6. Petitioners have therefore been forced to seek relief from this Court, and through
20 this Petition seek: (1) a writ of mandate pursuant to Sections 1085 and 1094.5 of the Code of
21 Civil Procedure to set aside the Conservancy’s action on February 27, 2019; (2) damages as a
22 result of the Conservancy’s inverse condemnation of land acquired by SJRAC to implement
23 Alternative 5B; and (3) a declaratory judgment pursuant to Section 1060 of the Code of Civil
24 Procedure finding that each of the Benchmarks articulated in Resolution 17-02 were met.

25 **PARTIES, JURISDICTION AND VENUE**

26 7. Petitioner and Plaintiff David Rodriguez is a resident of Pinedale, California, and
27 lives close to the intersection of Palm and Nees. As a citizen of Pinedale, Mr. Rodriguez hopes
28 to visit the Eaton Trail at a location close to his neighborhood. Mr. Rodriguez is concerned

1 about the Conservancy's determination that "reasonable progress" on Alternative 5B had not
2 been made, as this finding will result in delayed access to the Eaton Trail, and may result in
3 access being developed at a far less convenient location, Riverview Drive. Mr. Rodriguez is
4 also beneficially interested in the Project's impact on roads, infrastructure, and the surrounding
5 community, and participated in the administrative process leading up to the Conservancy
6 Board's decision on February 27, 2019.

7 8. Petitioner and Plaintiff Sarah Kolb is a resident of Fresno, California. As a
8 Fresno City resident, Ms. Kolb hopes to visit the Eaton Trail to access the San Joaquin River for
9 recreational purposes. Ms. Kolb is also concerned about the Conservancy's determination that
10 "reasonable progress" on Alternative 5B had not been made, as this finding will significantly
11 delay access to the Eaton Trail. Ms. Kolb is also beneficially interested in the Project's impact
12 on roads, infrastructure, and Fresno community, and participated in the administrative process
13 leading up to the Conservancy Board's decision on February 27, 2019.

14 9. Petitioner and Plaintiff Timothy Taira is a retired traffic engineer and resident of
15 the community adjacent to the Project. Mr. Taira's residence is located near the proposed
16 parking lot for Project Alternative 1. Mr. Taira is also concerned about the Conservancy's
17 determination that "reasonable progress" on Alternative 5B had not been made, as this finding
18 will significantly delay access to the Eaton Trail. Mr. Taira is also beneficially interested in the
19 Project's impact on roads, infrastructure, and impact on his neighborhood and community, and
20 participated in the administrative process leading up to the Conservancy Board's decision on
21 February 27, 2019.

22 10. Petitioner San Joaquin River Access Corporation ("SJRA") is a California Non-
23 Profit Public Benefit Corporation based in Fresno, California. The purpose of SJRA is to
24 ensure reasonable public access to the San Joaquin River and the Fresno River West, Eaton
25 Trail Extension. Several members of SJRA reside in the area affected by the proposed
26 Project's environmental impacts. Several of its members and representatives have made
27 objections both in writing and/or orally prior to the close of the public meetings held by the
28 Conservancy evaluating the project as described herein. SJRA is beneficially interested in this

1 matter because it owns the property that was the subject of Alternative 5B, and has a direct
2 interest in ensuring that the Respondents fulfill their duties to comply with State law and the
3 Conservancy's own Resolutions. SJRAC also has an interest in preserving and protecting, for
4 the general public, the environment and character of the San Joaquin River West, Eaton Trail
5 Extension.

6 11. Respondent San Joaquin River Conservancy (the "Conservancy") is a regionally
7 governed public agency created by the San Joaquin River Conservancy Act, Public Resources
8 Code § 32500 *et seq.* The purpose of the Conservancy is to acquire and manage public lands
9 within the San Joaquin River Parkway and coordinate efforts and mediate differences among
10 the local jurisdictions and the state. The Conservancy adopted Resolution No. 17-02 in
11 December 2017, and is the body that made the determinations on February 27, 2019, that are the
12 subject of this action.

13 12. Respondent and Defendant Santos Garcia is a Councilmember from the City of
14 Madera and serves as the Vice Chair on the Conservancy Board of Directors. At all times herein
15 mentioned after January 1, 2019, Respondent Garcia participated in the Conservancy Board of
16 Directors actions, including the Board's decision on February 27, 2019.

17 13. Respondent and Defendant Julie Vance is a Regional Manager for the Department
18 of Fish and Wildlife and serves as a Member on the Conservancy Board of Directors. At all
19 times herein mentioned, Respondent Vance participated in the Conservancy Board of Directors
20 actions, including the Board's decision on February 27, 2019.

21 14. Respondent and Defendant John Donnelly is the Executive Director of the
22 Wildlife Conservation Board and serves as a Member on the Conservancy Board of Directors.
23 At all times herein mentioned, Respondent Donnelly participated in the Conservancy Board of
24 Directors actions, including the Board's decision on February 27, 2019.

25 15. Respondent and Defendant Jennifer Lucchesi is the Executive Officer of the State
26 Lands Commission and serves as a Member on the Conservancy Board of Directors. At all
27 times herein mentioned, Respondent Lucchesi participated in the Conservancy Board of
28 Directors actions related to the Project, including the Board's decision on February 27, 2019.

1 16. Petitioners are unaware of the true names and capacities of Respondents
2 fictitiously named Does 1 through 20 and sues such respondents by fictitious names. Petitioner
3 is informed and believes, and on that basis alleges, that the fictitiously named respondents are
4 also responsible for the actions described in this Petition. When the true identities and
5 capacities of these Respondents have been determined, Petitioners will amend this petition, with
6 leave of the court if necessary, to insert such identities and capacities. Whenever the terms
7 “Conservancy,” the “Conservancy Board,” “Garcia,” “Vance,” “Donnelly,” “Lucchesi,”
8 “Respondents,” or “Defendants” are used herein, said terms shall be construed as including
9 Respondents and Defendants DOES 1 through 20, inclusive.

10 17. Petitioners and/or their members have performed any and all conditions precedent
11 to the filing of this Petition. Petitioner SJRAC, its members and representatives exhausted any
12 and all administrative remedies required by law by, *inter alia*, participating in the administrative
13 process both in writing and orally at the February 27, 2019 hearing before the Conservancy
14 Board.

15 18. Petitioners will also be filing a request concerning the preparation of the record of
16 administrative proceedings relating to this action concurrently with this Petition.

17 19. Petitioners have no plain, speedy, or adequate remedy in the course of ordinary
18 law unless this Court grants the requested writ of mandate to require Respondents to set aside
19 their determination that “reasonable progress” had not been made on Alternative 5B. In the
20 absence of such remedies, Respondents’ determination will remain in effect in violation of state
21 law, Petitioners and other residents within the vicinity of the Project will be irreparably harmed.
22 No money damages or legal remedy could adequately compensate Petitioners and those
23 residents and property owners for that harm.

24 20. Venue in Fresno County Superior Court is proper pursuant to sections 393 of the
25 Code of Civil Procedure and Section 955 of the Government Code. The San Joaquin River
26 Conservancy is situated in the County of Fresno, and the Project at issue is located within the
27 jurisdictional boundaries of the County of Fresno.

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2. Create and receive approval for post-closure land use plan for the Spano Property;
3. Secure exceptions and variances to the Bluff Protection Overlay District and tree removal ordinance from the City of Fresno.
4. Resolve issues associated with an easement on the Spano Property (“Spano easement”) “to the Conservancy Board’s satisfaction”; and
5. Secure an easement for public use in favor of a willing public agency and recorded for the Spano Property, or, alternatively, the Conservancy shall investigate acquiring fee title ownership of the Spano Property.

Resolution 17-02 required SJRAC to report its progress to the Conservancy Board and the River West Fresno and North Palm Access Implementation Work Group (“Work Group”) and participating parties throughout the year. Parties participating in the Work Group—and obligated to work in “good faith” toward the implementation of Alternative 5B—included the Conservancy Staff and Board, Fresno County, the City of Fresno, the Wildlife Conservation Board, and the San Joaquin River Parkway and Conservation Trust (the “Parkway Trust” or “SJRPCT”), among others.

23. Throughout the year following the adoption of Resolution 17-02, SJRAC worked diligently and in good faith with the Conservancy Staff and parties to the Work Group to meet each Benchmark articulated in Resolution No. 17-02. SJRAC incurred significant expenses related to implementing Resolution 17-02, including, but not limited to, acquiring title to the Spano Property (and two additional properties that could be used for additional parking), negotiating the easements and incorporating Conservancy Board input, conducting environmental studies, and applying for and defending approvals received from the City of Fresno. SJRAC reported its progress and addressed concerns from participating parties and the Conservancy at numerous Work Group meetings and Conservancy Board meetings throughout the year. These efforts to implement Alternative 5B also received extensive support from numerous leaders in local government, including the Mayor of the City of Fresno, the Fresno

1 City Council, the Fresno County Board of Supervisors, and the State Senators representing the
2 region surrounding the Project.

3 24. On January 9, 2019, the Conservancy Board held a public meeting during which
4 the Conservancy Staff would share its findings that SJRAC made “reasonable progress” on the
5 Benchmarks required by Resolution 17-02 and recommendation to continue implementing
6 Alternative 5B. Conservancy Staff specifically determined SJRAC had made reasonable
7 progress on the Benchmarks, and thus recommended the Conservancy continue implementing
8 Alternative 5B. Despite SJRAC’s diligent work, and against the findings and recommendations
9 of Conservancy Staff, however, the Conservancy Board sought to unwind the progress made for
10 Alternative 5B.

11 25. At the January 9, 2019 meeting, the Conservancy Board voted the Benchmarks
12 for Alternative 5B were not met and instead directed staff to proceed with Alternative 1.
13 Because those approvals were not agendized, SJRAC notified the Conservancy Board of its
14 actions violated California’s open meeting laws (*i.e.*, the Brown Act), causing the Conservancy
15 Board to rescind its vote and conduct a subsequent, properly agendized, public hearing on the
16 matter.

17 26. On or about February 27, 2019, the Conservancy Board held another public
18 meeting to evaluate whether SJRAC met the Benchmarks presented by Alternative 5B. Again,
19 the Conservancy Staff found SJRAC made reasonable progress required by Resolution 17-02
20 and recommended the Conservancy Board continue implementing Alternative 5B. Members of
21 SJRAC and supporters raised numerous concerns in writing prior to the meeting and in oral
22 testimony during the meeting that voting to not move forward with Alternative 5B would result
23 in significant damages to SJRAC, raise legal claims against the Conservancy and others, and
24 result in significant costs and delays. SJRAC and its members also raised concerns about bias
25 and failure of the Conservancy and participating agencies and Board Members failing to act in
26 good faith to implement Alternative 5B.

27 27. At the end of the February 27, 2019 meeting, however, the Conservancy Board
28 ultimately found—without evidentiary basis—that reasonable progress somehow had not been

1 made on Alternative 5B. The Conservancy Board has now directed staff to cease work on
2 Alternative 5B and reconsider Alternative 1, significantly delaying public access to the Project
3 and the San Joaquin River.

4 **CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION**

6 **Writ of Mandate—Violation of Resolution No. 17-02**

7 **(All Respondents, and DOES 1-20)**

8 28. Petitioners re-allege and incorporate by reference the precedent paragraphs 1 to
9 27 in their entirety, as though fully set forth herein.

10 29. On or about December 13, 2017, the Conservancy Board adopted Resolution 17-
11 02 approving Alternative 5B, but also stating the Conservancy Board may decline to proceed
12 with Alternative 5B if “reasonable progress is not made toward implementing Alternative 5B
13 within one year of approval.” Resolution 17-02 also required “all parties” act in “good faith”
14 with respect to the implementation of Alternative 5B.

15 30. The Conservancy Board defined “reasonable progress” as the achievement of the
16 five Benchmarks within one year after the approval of Alternative 5B.

17 31. Thus, the Conservancy had a legal duty to proceed with the implementation of
18 Alternative 5B so long as “reasonable progress”—defined as the achievement of the
19 Benchmarks—was met by the parties acting in “good faith.”

20 32. In reliance on Resolution No. 17-02, and at the direction of Conservancy Staff
21 and Board Members, SJRAC fully discharged its obligation to make “reasonable progress” in
22 “good faith” by meeting each of the Benchmarks. Specifically, SJRAC: (1) acquired and
23 recorded title to the Spano Property; (2) negotiated a Post-Closure Land Use Plan approved by
24 the County of Fresno Health Department and the Regional Water Quality Control Board; (3)
25 received a development permit, variance, and tree removal permit from the City of Fresno; (4)
26 completed and recorded the Spano Easement to the Conservancy Board’s satisfaction; and (5)
27 negotiated a final draft of the public access easement with a willing public agency, the WCB.

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1 33. Alternatively, to the extent any person could argue Benchmark No. 5 was not
2 met, any such obligation was either excused or made impossible by the actions or inactions of
3 the Conservancy staff and the Wildlife Conservation Board, and their failure to act in “good
4 faith,” including the failure to commence negotiations on the public access easement until it was
5 too late to receive formal approval by WCB, and WCB’s failure to provide a draft public access
6 easement to Petitioner that was acceptable to Conservancy staff until December 17, 2018.

7 34. The Conservancy failed to comply with its legal duty to proceed with the
8 implementation of Alternative 5B and reasonably construe Resolution 17-02. The
9 Conservancy’s finding that the Benchmarks had not been met was inconsistent with the express
10 language of Resolution 17-02, any reasonable interpretation of Resolution 17-02, California
11 law, and the findings of the Conservancy’s own professional staff. Petitioners have a clear,
12 present, and legal right with respect to the Conservancy’s actions under, and construction of,
13 Resolution 17-02. Petitioner SJRAC was the party obligated under Resolution 17-02 tasked
14 with the completion of the majority of the Benchmarks. In addition, all Petitioners, and
15 SJRAC’s members, have an interest in the development of Alternative 5B, which provides
16 access to the Eaton Trail at a convenient location adjacent to existing transportation nodes and a
17 commercial intersection, with a parking lot located conveniently adjacent to the San Joaquin
18 River.

19 35. As a result of the foregoing, the Conservancy also abused its discretion by acting
20 in a manner that was arbitrary and capricious, and without evidentiary support.

21 36. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of
22 law.

23 37. Petitioners therefore request that the Court issue a writ of mandate, pursuant to
24 Sections 1085 and 1094.5 of the Code of Civil Procedure, and the Court’s inherent equitable
25 powers, to invalidate the Conservancy’s finding that SJRAC (and others) purportedly did not
26 make reasonable progress meeting the Benchmarks.

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1 **SECOND CAUSE OF ACTION**

2 **(Writ of Mandate—Failure to Act in Good Faith in Violation of Resolution 17-02)**

3 **(All Respondents and DOES 1-20)**

4 38. Petitioners re-allege and incorporate by reference the precedent paragraphs 1 to
5 37 in their entirety, as though fully set forth herein.

6 39. On or about December 13, 2017, the Conservancy Board adopted Resolution 17-
7 02 approving Alternative 5B. The Resolution also ordered that the Conservancy Board may
8 reconsider Alternative 1 if “reasonable progress is not made toward implementing Alternative
9 5B within one year of approval,” with the requirement that “all parties” act in “good faith”
10 toward “implementing Alternative 5B.” The “parties” that were required to act in “good faith”
11 toward “implementing Alternative 5B” included the Conservancy (including its board and
12 staff), the Conservancy’s member agencies (such as the Wildlife Conservation Board, the State
13 Lands Commission, and the City of Madera), and parties participating in the implementation of
14 Alternative 5B (such as the Parkway Trust).

15 40. Thus, the Conservancy had a legal duty to ensure all parties participating in the
16 implementation of Alternative 5B acted in “good faith.” Likewise, the Conservancy Board
17 members—and their respective agencies—had the obligation to act in “good faith” with respect
18 to the implementation of Alternative 5B. “Good faith” included an obligation to assist in the
19 completion of the Benchmarks in a timely manner, and decline to act in a manner that could
20 impair, interfere with, hinder, or potentially injure the rights of Petitioner SJRAC and others to
21 implement the Benchmarks.

22 41. In reliance on Resolution No. 17-02, and at the direction of Conservancy Staff
23 and Board Members, SJRAC fully discharged its obligation to act in “good faith” to make
24 “reasonable progress” toward the implementation of Alternative 5B and complete the
25 Benchmarks articulated in Resolution 17-02.

26 42. Several parties who were required to act in “good faith” under Resolution 17-02
27 violated the intent, spirit, and the letter of the resolution by actively thwarting SJRAC’s ability
28 to meet the Benchmarks. These efforts included, but are not limited to:

1 A. The WCB staff and Conservancy Staff and legal counsel failed to
2 provide SJRAC a final draft of the Public Access Easement that was ready for SJRAC to edit
3 until December 17, 2018. Despite this, SJRAC worked through the holiday season and fully
4 negotiated the draft Public Access Easement with WCB and Conservancy staff by January 4,
5 2019. While the Conservancy Board subsequently took the position that final approval from
6 WCB's governing Board was required, Respondents knew—and were specifically advised by
7 Conservancy staff—that it was impossible to complete the multi-month process to receive
8 WCB final approval and recordation in merely a few weeks before SJRAC's progress would be
9 reported at the January 9, 2019, Conservancy Board meeting.

10 B. The WCB representative on the Conservancy Board, Respondent and
11 Defendant John Donnelly, persuaded the Conservancy Board that SJRAC failed to meet the
12 Public Access Easement Benchmark because SJRAC had not gone through a multi-month
13 process to secure a real property transaction review by the WCB Board. Director Donnelly
14 knew and understood it was impossible for SJRAC to secure such a review after his own
15 agency, WCB, failed to deliver a final draft of the Public Access Easement that was ready for
16 SJRAC to edit until December 17, 2018. When confronted about this issue, Mr. Donnelly
17 blamed Conservancy staff for the delay—notwithstanding the fact that Conservancy staff itself
18 was obligated to act in “good faith” toward the implementation of Alternative 5B.

19 C. The San Joaquin River Parkway and Conservation Trust, Inc. (the
20 “Parkway Trust”) participated in the Work Group meetings concerning the implementation of
21 Alternative 5B, and is a long-time partner of the Conservancy. As a member of the Work
22 Group, the Parkway Trust was obligated to act in “good faith” under Resolution 17-02 toward
23 “implementing Alternative 5B.” The Parkway Trust, however, failed to act in good faith
24 toward the implementation of Alternative 5B. Instead of facilitating the implementation of
25 Alternative 5B, the Parkway Trust opposed Alternative 5B publicly and fomented opposition.
26 Instead of facilitating the project approvals required to develop Alternative 5B, the Parkway
27 Trust appealed the City of Fresno's approval of the Development Permit, Variance, and Tree
28 Removal Permit required by Resolution No. 17-02. Parkway Trust staff publicly berated and

1 yelled at the Conservancy's Executive Director for making statements they construed as
2 supporting Alternative 5B following a City of Fresno Planning Commission meeting. The
3 Trust also failed to act in "good faith" by mispresenting several material facts about
4 constructing, operating, and maintaining Alternative 5B and disseminating those
5 misrepresentations to the Conservancy Board and the public.

6 D. With the intent of hindering SJRAC's negotiations to acquire the Spano
7 Properties, throughout 2018, Respondents requested numerous additions to the real estate
8 documents SJRAC was negotiating with Spano after the adoption of Resolution 17-02. Many
9 of these requested additions were legally superfluous or contrary to the Conservancy's own
10 environmental documents. For example, members of the Conservancy Board required edits
11 that were duplicative of the existing legal effect of the documents, and also required SJRAC to
12 require Spano to agree to far more parking than was studied and authorized under the
13 Conservancy's own environmental document.

14 E. The Conservancy Board's finding that the Benchmarks was not met was
15 illogical, and contrary to the findings of the Conservancy's professional staff.

16 F. The Conservancy Board and its Board members relied on factors outside
17 of the Benchmarks required by Resolution 17-02 to make the determination that "reasonable
18 progress" had not been made. For example, Respondent John Donnelly stated at the January 9,
19 2019, Conservancy Board meeting that Conservancy staff had failed to receive public access
20 easements from the City of Fresno and the Fresno Metropolitan Flood Control District, even
21 though Resolution 17-02 did not require such easements. Likewise, Director Vance relied
22 upon the fact that the City of Fresno had not yet agreed to fund operations and maintenance for
23 the entire Project—even though (i) this was not a requirement in the Benchmarks, and (ii) any
24 such obligation is contrary to the Conservancy's enabling statute. (See Pub. Resources Code, §
25 32511 [stating that the Conservancy "shall be responsible for operation and maintenance of the
26 parkway . . ."].)

27 G. The Conservancy Board ignored factual information from staff and
28 instead relied on misrepresentations about Alternative 5B fabricated by the Parkway Trust.

1 H. The Conservancy Board relied on statements by the Parkway Trust that
2 Alternative 5B would remove mature sycamores. The Conservancy's reliance on such
3 statements constitutes a lack of "good faith" because the Conservancy regularly removes
4 mature trees as part of its projects, and many of the trees to be removed were determined to
5 already be deceased. Further, mitigation measures required any removed tree to be replaced
6 with five more in its place.

7 I. Conservancy representatives stated in the hearing that Alternative 5B
8 would "destroy the bluff." This is also evidence of a failure to act in "good faith" toward the
9 implementation of Alternative 5B, as such statements are factually inaccurate and contrary to
10 the determination of the Conservancy's professional staff. Moreover, Petitioners are informed
11 and believe, and based thereon allege, that such approvals are—and will be—required for other
12 Conservancy projects.

13 J. Instead of objectively evaluating whether SJRAC and others met the
14 Benchmarks, Director Santos and others instead referred to Petitioners during the
15 administrative process as "NIMBYs."

16 43. Therefore, the Conservancy, its Board members, the Parkway Trust, and WCB
17 failed to act in "good faith," in violation of Resolution 17-02.

18 44. Petitioners have a clear, present, and legal right with respect to the requirement
19 that the Conservancy ensure all parties act in "good faith" with respect to the implementation of
20 Alternative 5B, as required under Resolution 17-02. Petitioner SJRAC was the party obligated
21 under Resolution 17-02 tasked with the completion of the majority of the Benchmarks. In
22 addition, all Petitioners, and SJRAC's members, have an interest in the development of
23 Alternative 5B, which provides access to the Eaton Trail at a convenient location adjacent to
24 existing transportation nodes and a commercial intersection, with a parking lot located adjacent
25 to the San Joaquin River.

26 45. As a result of the foregoing, the Conservancy also abused its discretion by acting
27 in a manner that was arbitrary and capricious, and without evidentiary support.

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46. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of law.

47. Petitioners therefore request that the Court issue a writ of mandate, pursuant to Sections 1085 and 1094.5 of the Code of Civil Procedure, and the Court's inherent equitable powers, to invalidate the Conservancy's decision to halt implementation of Alternative 5B, due to the failure of the Conservancy, its Board Members, its member agencies, and other parties participating in the Alternative 5B Work Group (such as the Parkway Trust) to act in "good faith" with respect to the implementation of Alternative 5B.

THIRD CAUSE OF ACTION

(Writ of Mandate—Imposition of Unlawful Conditions on Alternative 5B Implementation)

(All Respondents and DOES 1-20)

48. Petitioners re-allege and incorporate by reference the precedent paragraphs 1 to 47 in their entirety, as though fully set forth herein.

49. On or about December 13, 2017, the Conservancy Board adopted Resolution 17-02 approving Alternative 5B, which approved Alternative 5B, but also ordered that the Conservancy Board may decline to proceed with Alternative 5B if “reasonable progress is not made toward implementing Alternative 5B within one year of approval,” with the requirement that “all parties” act in “good faith.” The Conservancy Board defined “reasonable progress” as the achievement of the five Benchmarks.

50. Thereafter, however, the Conservancy Board applied several conditions on Alternative 5B that were contrary to law, which include, but are not limited to:

A. The Conservancy Board imposed several conditions on Alternative 5B and SJRAC that were not included within the Benchmarks, in violation of Resolution 17-02.

B. The Conservancy Board imposed several conditions on the development of Alternative 5B *after* the approval of Resolution 17-02, interfering with SJRAC's right to develop the Spano Property consistent with the conditions articulated by the Conservancy Board at the time of Project approval.

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1 C. To the extent Resolution 17-02 could be read as authorizing the
2 Conservancy Board to rely upon conditions other than the Benchmarks, several of those *post*
3 *hoc* conditions were contrary to law, including the Conservancy Board's demand that third-
4 parties—and not the Conservancy—fund operations and maintenance for components of the
5 Project. (See Pub. Resources Code, § 32511 [stating that the Conservancy “shall be
6 responsible for operation and maintenance of the parkway . . .”].)

7 D. To the extent Resolution 17-02 could be read as authorizing the
8 Conservancy Board to rely upon conditions other than the Benchmarks, several of those *post*
9 *hoc* conditions were particular to the project proponents, and not the property itself, and thus
10 void. (See *Anza Parking Corp. v. City of Burlingame* (1987) 195 Cal.App.3d 855, 858.)

11 E. To the extent Resolution 17-02 could be read as authorizing the
12 Conservancy Board to rely upon conditions other than the Benchmarks, there is no logical
13 nexus or reasonable relationship between several of the *post hoc* conditions imposed upon the
14 approval of Alternative 5B and the project's alleged impacts. (See *Dolan v. City of Tigard*
15 (1994) 512 U.S. 374.)

16 F. To the extent that Resolution 17-02 could be read as authorizing the
17 Conservancy Board to rely upon conditions other than the Benchmarks, Resolution No. 17-02
18 is unlawfully ambiguous and vague, and failed to provide Petitioners and the public adequate
19 notice of the factors upon which the Conservancy Board would subsequently evaluate
20 Alternative 5B.

21 G. To the extent that Resolution 17-02 could be read as authorizing the
22 Conservancy Board to rely upon conditions other than the Benchmarks, those conditions were
23 unlawful and unconstitutional because they were proposed after the expiration of the one-year
24 period, and thus too late for Petitioners to have reasonable notice of the Conservancy Board's
25 subjective and unarticulated expectations.

26 51. As a result of the foregoing, the Conservancy failed to proceed in a lawful matter
27 in implementing Alternative 5B following its approval of Resolution 17-02.

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1 party involved in that decision. (*Nasha v. City of Los Angeles* (2004) 125 Cal.App.4th 470,
2 486; *Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152.)

3 58. Throughout the proceedings relating to Alternative 5B, several members of the
4 Board declined to abstain from considering the merits of Alternative 5B, even though they
5 exhibited impermissible bias against Petitioners and others who supported Alternative 5B and
6 were disqualified. This is based on several facts, including, but not limited to, the following:

7 A. Director Garcia and others openly derided Petitioners and their members
8 as “NIMBY’s.”

9 B. Director Vance asserted on the record that she did not intend to apply the
10 same level of rigor to Alternative 1 that had been applied to Alternative 5B.

11 C. Directors Vance, Donnelly, Garcia, and Lucchesi openly stated they
12 were relying upon extraneous and irrelevant factors to determine “reasonable progress” on
13 Alternative 5B supposedly had not been made, which prohibited Petitioners and other
14 stakeholders the opportunity to address these issues prior to the Board’s decision not to
15 proceed with Alternative 5B.

16 D. Directors Vance, Donnelly, Garcia, and Lucchesi relied upon factors
17 other than the Benchmarks articulated in Resolution 17-02 to determine whether reasonable
18 progress had been made.

19 E. Several of the factors Directors Vance, Donnelly, Garcia, and Lucchesi
20 relied upon to reject Alternative 5B are commonplace with Conservancy projects, setting a
21 different standard for SJRAC. Indeed, Mr. Garcia openly stated his vote against Alternative
22 5B “comes down to” his belief that Alternative 5B would “destroy the bluff” and “destroy
23 trees.” Conservancy projects, however, regularly involve the removal of trees. Moreover, in
24 addition to the fact that bluff, of course, will not be destroyed, Petitioners are informed and
25 believe, and based thereon allege, that Conservancy projects regularly require—and will
26 continue to require—variances from the City’s Bluff Protection Ordinance.

27 F. Although WCB was tasked with providing SJRAC with a draft public
28 access easement at the beginning of 2018, WCB staff did not provide SJRAC with a draft

1 document in a timely manner. Indeed, Conservancy staff has conceded that “SJRAC did not
2 receive a draft of the easement acceptable to both the Wildlife Conservation Board and
3 Conservancy staff and legal counsel until December 17, 2018.” Despite this, SJRAC worked
4 over the holidays to finalize the easement prior to the Conservancy’s review of the
5 Benchmarks on January 4, 2019. Nevertheless, Director Donnelly advised the Conservancy
6 Board on January 9, 2019, that SJRAC had not met the Benchmark concerning a public access
7 agreement because it had not gone through the formal real property review process at WCB,
8 which is a multi-month process. Securing such approval before January 9, 2019, of course,
9 was plainly impossible because WCB staff did not provide a draft easement to SJRAC with
10 sufficient time to seek WCB approval. Director Donnelly’s statements were procedurally
11 unfair, based on erroneous information, and failed to account for WCB’s own delay, exhibiting
12 plain bias against Petitioners.

13 G. Director Lucchesi’s vote was determined by the State Lands
14 Commission (“SLC”) prior to the Conservancy’s action on Alternative 5B, ensuring her vote
15 would not and could not change at the noticed hearing on the Alternative 5B. Consistent with
16 the SLC’s direction, Director Lucchesi has continued to oppose Alternative 5B in favor of
17 Alternative 1.

18 H. Director Lucchesi, as SLC’s Executive Director, conducted SLC
19 meetings concerning the Project without providing notice to Petitioners (and only providing
20 adequate notice to the Parkway Trust), which had a material effect on SLC decisions
21 concerning Alternative 5B and Director Lucchesi’s vote on February 26, 2019. This lack of
22 notice caused then-Lieutenant Governor Gavin Newsom and others to be misled into believing
23 the proponents of Alternative 5B simply did not care about the issue, as evidenced by his
24 statements on the record:

25 Seeing none, *no one here advocating for 5B*. None of the folks that
26 were at that council meeting.

27

28 That was very helpful for me, the public comment [by the Parkway Trust
 and its supporters], and the presentation. And *it shows the value of*

1 *being here, and also suggests those that aren't here may not feel as*
2 *strongly, or perhaps have conflicts, but curiously no one here to*
3 *oppose, which is interesting.* [emphasis added]

4 Later during the hearing, Mr. Newsom stated he was initially "open to
5 argument" about "how to achieve access" to the Project, but that "*in the absence of the*
6 *alternative argument*" being presented, he stated, "I don't think this is a difficult decision for
7 this Commission." [emphasis added]

8 59. As a result of the foregoing, and the participation of Board Members who were
9 disqualified from participating in the decision concerning whether SJRAC and others met the
10 Benchmarks articulated in Resolution 17-02, the Conservancy failed to proceed in a lawful
11 matter in implementing Alternative 5B following its approval of Resolution 17-02.

12 60. Petitioners have a clear, present, and legal right with respect to the requirement
13 that Conservancy projects be considered only by impartial and unbiased decisionmakers.
14 Petitioner SJRAC was the party obligated under Resolution 17-02 tasked with the completion of
15 the majority of the Benchmarks. In addition, all Petitioners, and SJRAC's members, have an
16 interest in the development of Alternative 5B, which provides access to the Eaton Trail at a
17 convenient location adjacent to existing transportation nodes and a commercial intersection,
18 with a parking lot located conveniently adjacent to the San Joaquin River.

19 61. As a result of the foregoing, the Conservancy also abused its discretion by acting
20 in a manner that was arbitrary and capricious, and lacking evidentiary support.

21 62. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of
22 law.

23 63. Petitioners therefore request that the Court issue a writ of mandate, pursuant to
24 Sections 1085 and 1094.5 of the Code of Civil Procedure, and the Court's inherent equitable
25 powers, to invalidate the Conservancy's decision to halt implementation of Alternative 5B, due
26 to the participation of several decisionmakers who were disqualified from participating in the
27 decision concerning Alternative 5B based on unlawful bias.

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1 **FIFTH CAUSE OF ACTION**

2 **(Equitable Estoppel)**

3 **(All Respondents and DOES 1-20)**

4 64. Petitioners re-allege and incorporate by reference the precedent paragraphs 1 to
5 63 in their entirety, as though fully set forth herein.

6 65. In adopting Resolution 17-02, the Conservancy actively misled Petitioners into
7 believing that, if SJRAC met the Benchmarks articulated in Resolution No. 17-02, the
8 Conservancy would continue with the implementation of Alternative 5B. The Conservancy
9 Board also represented in Resolution No. 17-02 that it would act in “good faith” toward the
10 implementation of Alternative 5B.

11 66. At the time the above representations were made, the Conservancy knew and
12 intended that SJRAC would rely on this representation. SJRAC, in turn, reasonably believed
13 that the Conservancy would rely upon the Benchmarks articulated in Resolution No. 17-02, and
14 that it would not decline to proceed with Alternative 5B if those Benchmarks had been met.

15 67. In reasonable and justified reliance on the Conservancy Board’s vote approving
16 Alternative 5B and Resolution 17-02, SJRAC expended significant resources to meet the
17 Conservancy’s Benchmarks, including: (1) acquiring title to the Spano property; (2) obtaining
18 an approved Post-Closure Land-Use plan; (3) acquiring the necessary approvals from the City
19 of Fresno; (4) resolving the concerns articulated by the Conservancy Board in December 2017
20 concerning the easement over the Spano Property; and (5) negotiating a Public Access
21 Easement for Alternative 5B to be developed over the Spano Property.

22 68. Despite this, the Conservancy ultimately declined to proceed with Alternative
23 5B, relying upon factors other than the Benchmarks articulated in Resolution 17-02.

24 69. Based on the foregoing, Respondents should be equitably estopped from halting
25 implementation of Alternative 5B. An actual controversy between Petitioners and Respondents
26 exists as to whether Respondents should be equitably estopped from determining reasonable
27 progress had not been made under Resolution 17-02, and Petitioners are entitled to such a
28 declaration from this Court.

1 **SIXTH CAUSE OF ACTION**

2 **(Violation of Substantive Due Process)**

3 **(All Respondents and DOES 1-20)**

4 70. Petitioners re-allege and incorporate by reference the precedent paragraphs 1 to
5 69 in their entirety, as though fully set forth herein.

6 71. "Substantive due process protects against arbitrary government action." (*County*
7 *of Sacramento v. Lewis* (1998) 523 U.S. 833; *Ross v. City of Yorba Linda* (1991) 1 Cal.App.4th
8 954, 960.) Conduct that violates Petitioners' right to due process includes failure to provide
9 adequate notice of governmental action, (*Horn v. County of Ventura* (1979) 24 Cal.3d 605,
10 607), repeated project denials and procedural errors in the approval process, (*Cohan v. City of*
11 *Thousand Oaks* (1994) 30 Cal.App.4th 547, 561), and through the failure to provide a fair
12 hearing. (*Nightlife Partners, Ltd. v. City of Beverly Hills* (2003) 108 Cal.App.4th 81, 90.)

13 72. The Conservancy violated Petitioners' right to substantive due process in several
14 ways. In addition to the facts stated in each and all of the above stated paragraphs, the
15 Conservancy violated Petitioners' due process rights by, among other things, relying upon
16 factors other than those articulated in Resolution No. 17-02, which failed to provide Petitioners
17 or the public with objective criteria for determining whether "reasonable progress" had been
18 made; repeated project denials and procedural errors in the consideration of Alternative 5B, as
19 well as the lack of notice to SJRAC, its members, and the City of Fresno; making numerous
20 additional requests to the SJRAC relating to the real estate documents it was negotiating with
21 Spano; and the failure of the Conservancy, WCB, the Parkway Trust, and others to act in "good
22 faith" toward the implementation of Alternative 5B, as stated in the previous Paragraphs above.

23 73. In addition, the Conservancy's finding that SJRAC and others did not meet the
24 Benchmarks also violated Petitioners' right to substantive due process because the
25 Conservancy's conduct was "for the purpose of oppression," amounted to an "abuse of
26 governmental power that shocks the conscience," and was "legally irrational in that it is not
27 sufficiently keyed to any legitimate state interest." (*Stubblefield Constr. Co. v. City of San*
28 *Bernardino* (1995) 32 Cal.App.4th 687, 711.)

1 74. Petitioners have a clear, present, and legal right with respect to the requirement
2 that the Conservancy act in a manner that is not arbitrary, and provide Petitioners a fair hearing.
3 In addition, all Petitioners, and SJRAC's members, have an interest in the development of
4 Alternative 5B, which provides access to the Eaton Trail at a convenient location adjacent to
5 existing transportation nodes and a commercial intersection, with a parking lot located
6 conveniently adjacent to the San Joaquin River.

7 75. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of
8 law.

9 76. Petitioners therefore request that the Court issue a writ of mandate, pursuant to
10 Sections 1085 and 1094.5 of the Code of Civil Procedure, and the Court's inherent equitable
11 powers, to invalidate the Conservancy's decision to halt implementation of Alternative 5B, due
12 to the Conservancy's arbitrary actions, and the failure to provide Petitioners with a fair hearing.

13 **SEVENTH CAUSE OF ACTION**

14 **(Writ of Mandate – Violation of Equal Protection)**

15 **(All Respondents and DOES 1-20)**

16 77. Petitioners re-allege and incorporate by reference the precedent paragraphs 1 to
17 76 in their entirety, as though fully set forth herein.

18 78. "The federal equal protection clause (U.S. Const., 14th Amend.) and its
19 California counterpart (Cal. Const., art. I, § 7, subd. (a)) provide that persons who are similarly
20 situated with respect to legitimate purpose of a law must be treated alike under the law.
21 [Citations omitted.] Equal protection challenges typically involve claims of discrimination
22 against an identifiable class or group of persons. The United States Supreme Court in *Village of*
23 *Willowbrook v. Loch* (2000) 528 U.S. 562, 564 (*Olech*), however, held that a plaintiff who does
24 not allege membership in a class or group may state a claim as a 'class of one.'" (*Las Lomas*
25 *Land Co., LLC v. City of Los Angeles* (2009) 177 Cal.App.4th 837, 857.)

26 79. Respondents violated Petitioners' right to equal protection under the law.
27 Petitioners are informed and believe, and based thereon allege, that Respondents' unequal

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1 treatment of Petitioners is clearly intentional, appears to be based on animus and the belief that
2 Petitioners are “NIMBYs,” and is not based on any rational or legitimate basis.

3 80. Respondents also violated the equal protection clause because of its disparate
4 treatment of the SJRAC and the Parkway Trust and other similarly-situated Conservancy
5 projects and properties.

6 81. Petitioners have a clear, present, and legal right with respect to the requirement
7 that the Conservancy provide them equal treatment consistent with its Constitutional
8 obligations. In addition, all Petitioners, and SJRAC’s members, have an interest in the
9 development of Alternative 5B, which provides access to the Eaton Trail at a convenient
10 location adjacent to existing transportation nodes and a commercial intersection, with a parking
11 lot located conveniently adjacent to the San Joaquin River.

12 82. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of
13 law.

14 83. Petitioners therefore request that the Court issue a writ of mandate, pursuant to
15 Sections 1085 and 1094.5 of the Code of Civil Procedure, and the Court’s inherent equitable
16 powers, to invalidate the Conservancy’s decision to halt implementation of Alternative 5B, due
17 to the Conservancy’s differential treatment of Petitioners.

18 **EIGHTH CAUSE OF ACTION**

19 **(Inverse Condemnation)**

20 **(All Respondents and DOES 1-20)**

21 84. Petitioners re-allege and incorporate by reference the precedent paragraphs 1 to
22 83 in their entirety, as though fully set forth herein.

23 85. On or about December 13, 2017, the Conservancy Board adopted Resolution 17-
24 02 approving Alternative 5B and requiring SJRAC to make “reasonable progress” by achieving
25 the five Benchmarks within a year of the approval.

26 86. Petitioners reasonably and justifiably relied on the Conservancy’s representation
27 in Resolution 17-02 that if reasonable progress were made meeting the Benchmarks presented
28 by Resolution 17-02, the Conservancy Board would continue implementing Alternative 5B.

1 Plaintiff also reasonably and justifiably relied on the representations made by Conservancy Staff
2 on behalf of the Conservancy and at the direction of the Conservancy Board that if reasonable
3 progress was made by achieving the Benchmarks presented by Resolution 17-02, the
4 Conservancy Board would continue implementing Alternative 5B in "good faith."

5 87. In reliance on Resolution No. 17-02 and at the direction of Conservancy Staff
6 and Board Members, SJRAC acquired three properties, recorded easements, and sought (and
7 received) numerous government approvals in furtherance of developing Alternative 5B for
8 public use on the Spano Property. Specifically, SJRAC acquired and recorded title to the Spano
9 Property, negotiated a Post-Closure Land Use Plan, which the Conservancy Board approved,
10 received a development permit, variance, and tree removal permit from the City of Fresno, and
11 completed and recorded the Spano Easement to the Conservancy Board's satisfaction. In
12 addition, SJRAC conducted environmental studies, engineering studies, and took additional
13 actions at its own expense in furtherance of developing Alternative 5B for public access to the
14 San Joaquin River. Every action described here was performed by SJRAC for developing
15 Alternative 5B for public use. SJRAC also conducted numerous studies of the site for
16 compliance with the purposes of developing Alternative 5B on the site, such as environmental
17 and engineering reviews.

18 88. On February 27, 2019, the Conservancy damaged the value of the property by
19 voting to stop the implementation of Alternative 5B, despite the fact the Conservancy knew and
20 understood SJRAC made these significant investments in reliance on Resolution 17-02.

21 89. The Conservancy's decision resulted in a taking of property from SJRAC, and
22 SJRAC has suffered damages in an amount to be proven at the time of trial.

23 90. Respondents have performed actions in the foregoing paragraphs that have
24 damaged SJRAC's property, prevented SJRAC from having access to or using all of its
25 property, and interfering with SJRAC's reasonable investment-backed expectations.

26 91. The actions described herein have injured SJRAC. Respondents have not paid
27 compensation to SJRAC for the damages caused to SJRAC's property that is being taken.

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92. SJRAC is entitled to compensation from Respondents commensurate with the damages caused to it pursuant to the United States Constitution Fifth Amendment and California Constitution Article 1, Section 19.

93. SJRAC has been required to retain legal counsel to pursue legal redress for Respondents' wrongful conduct. Accordingly, SJRAC is entitled to recovery of its attorneys' fees, costs of suit, fees and expenses pursuant to Section 1036 of the Code of Civil Procedure and other applicable laws.

NINTH CAUSE OF ACTION

Declaratory Relief

(All Respondents and DOES 1-20)

94. Petitioners re-allege and incorporate by reference the precedent paragraphs 1 to 93 in their entirety, as though fully set forth therein.

95. There exists a clear and actual controversy as between Petitioners and Respondents as to whether the Benchmarks were met. Petitioners claim those Benchmarks were met (except to the extent they were preventing from completing the Benchmarks by Respondents and WCB), while Respondents claim they were not.

96. Petitioners therefore request a declaration that each of the Benchmarks articulated under Resolution 17-02 were met (except to the extent prevented by Respondents and WCB), and that “reasonable progress” on implementing Alternative 5B was thus achieved.

97. Such declaration is a necessary and proper exercise of this Court's power under Section 1060 of the Code of Civil Procedure to prevent harm to Petitioners and others.

TENTH CAUSE OF ACTION

Injunctive Relief

(All Respondents and DOES 1-20)

98. Petitioners re-alleges and incorporates by reference the precedent paragraphs 1 to 97 in their entirety, as though fully set forth herein.

99. With respect to the violations of law alleged in the First through Eighth Causes of Action, and as alleged in the foregoing paragraphs of the Petition, Respondents will

1 continue to proceed in a manner that will cause Petitioners harm for which they cannot be fully
2 compensated.

3 100. Petitioners are therefore entitled to a permanent injunction pursuant to Sections
4 525 – 526 of the Code of Civil Procedure commanding Defendants to cease violating the law
5 and Resolution 17-02, and to follow the required legal processes for evaluating the Alternative
6 5B.

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Petitioners pray for judgment as follows:

9 1. For a peremptory writ of mandate pursuant to the Code of Civil Procedure
10 section 1085, or, in the alternative, Code of Civil Procedure section 1094.5, directing
11 Respondents to vacate and set aside their vote finding “reasonable progress” had not been made
12 on Alternative 5B;

13 2. For damages and just compensation for the taking of property, the precise
14 amount to be proven at trial;

15 3. For a declaration that each of the Benchmarks stated in Resolution 17-02 were
16 met, and that “reasonable progress” toward the implementation of Alternative 5B was met.

17 4. For an injunction restraining the violations of law alleged in Petitioners’ First
18 through Ninth Causes of Action, and preventing further damage to Petitioners’ property; and

19 5. For fees and costs available under the laws of California, incidental or necessary
20 in procuring the relief sought in Petitioner’s First through Tenth Causes of Action, including
21 reasonable attorneys’ fees pursuant to Sections 1021.5 and 1036 of the Code of Civil
22 Procedure; and

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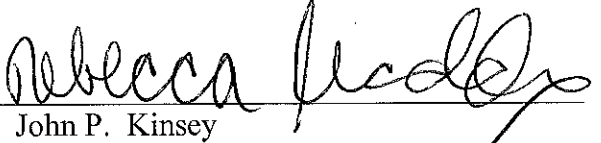
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6. For such other relief that the Court deems just and proper under California law.

DATED: MARCH 28, 2019

WANGER JONES HELSLEY PC

By: 

John P. Kinsey
Rebecca S. Maddox,
Attorneys for Petitioners and Plaintiffs
David Rodriguez, Sarah Kolb, Timothy
Taira, and San Joaquin River Access
Corporation

VERIFICATION
[CCP §§ 446, 1096]

I, David Rodriguez, am a petitioner and plaintiff in this action. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Inverse Condemnation and Declaratory Relief (the "Petition"), and am familiar with its contents.

All facts alleged in the Petition are either true of my own knowledge, or as I am informed and believe them to be true, and on that basis allege them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 29 day of March, 2019 in Fresno, California.



David Rodriguez

VERIFICATION
[CCP §§ 446, 1096]

I, Timothy Taira, am a petitioner and plaintiff in this action. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Inverse Condemnation and Declaratory Relief (the "Petition"), and am familiar with its contents.

All facts alleged in the Petition are either true of my own knowledge, or as I am informed and believe them to be true, and on that basis allege them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27 day of March, 2019 in Fresno, California.



Timothy Taira

VERIFICATION
[CCP §§ 446, 1096]

I, BARRY BAUER, am the President of the San Joaquin River Access Corporation, a petitioner and plaintiff in this action. I am authorized to execute this verification on behalf of the San Joaquin River Access Corporation.

I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Inverse Condemnation and Declaratory Relief (the "Petition"), and am familiar with its contents.

All facts alleged in the Petition are either true of my own knowledge, or as I am informed and believe them to be true, and on that basis allege them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 26 day of March, 2019 in Fresno, California.

Barry Bauer

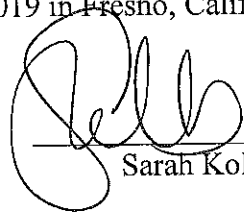
VERIFICATION
[CCP §§ 446, 1096]

I, Sarah Kolb, am a petitioner and plaintiff in this action. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Inverse Condemnation and Declaratory Relief (the "Petition"), and am familiar with its contents.

All facts alleged in the Petition are either true of my own knowledge, or as I am informed and believe them to be true, and on that basis allege them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27 day of March, 2019 in Fresno, California.



Sarah Kolb